

# **EXHIBIT C-2**

**CAUSE NO. S0705**

**GAVIN V. CAROLAN AND KENIA R.  
CAROLAN,**

*Plaintiffs,*

**v.**

**USAA FEDERAL SAVINGS BANK,**

*Defendant.*

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**IN THE JUSTICE COURT**

**PRECINCT 5**

**HOCKLEY COUNTY, TEXAS**

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**DEFENDANT'S ORIGINAL ANSWER**

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COMES NOW, Defendant USAA Federal Savings Bank ("Defendant") and files this Original Answer in response to Gavin V. Carolan and Kenia R. Carolan's ("Plaintiffs") Petition: Small Claims Case (the "Petition"), respectfully showing the Court as follows:

**I.  
ORIGINAL ANSWER**

**A. GENERAL DENIAL**

Pursuant to Rules 92 and 502.5(b) of the Texas Rules of Civil Procedure, Defendant generally denies each and every allegation in Plaintiffs' Petition, including any and all amended or supplemental petitions, and demands strict proof thereof.

**B. AFFIRMATIVE AND OTHER DEFENSES**

In addition to its general denial, Defendant asserts the following affirmative and other defenses:

1. Plaintiffs fail to state a claim upon which relief can be granted, and therefore, Plaintiffs' claims should be dismissed.

2. Plaintiffs' claims are barred, in whole or in part, because Plaintiffs have failed to allege and prove all conditions precedent to recovery.

3. Plaintiffs' claims are barred, in whole or in part, by Plaintiffs' failure to allege facts sufficient to state a claim for any damages.

4. Plaintiffs' claims are barred, in whole or in part, by reason of Defendant's compliance with applicable statutes and other provisions of law.

5. Plaintiffs' claims are barred, in whole or in part, by reason of Defendant's compliance with applicable contracts and agreements.

6. Plaintiffs' claims are barred because they have no private right of action.

7. Plaintiffs' claims are barred, in whole or in part, by the doctrines of estoppel, in all its forms, contractual estoppel, quasi-estoppel, waiver, unclean hands, laches, and/or other equitable doctrines.

8. The actions of Defendant were taken in good faith, and Defendant did not knowingly, intentionally, or maliciously violate any laws.

9. Plaintiffs' claims are barred, in whole or in part, by reason of the fact that Defendant's actions were not the proximate cause or producing cause of Plaintiffs' damages, if any.

10. Plaintiffs' claims are barred, in whole or in part, because Defendant's acts and/or omissions were not the cause of Plaintiffs' damages, if any. Rather, Plaintiffs' damages, if any, were proximately caused by the acts, omissions, or breaches of other persons and/or entities, including Plaintiffs, and the acts, omissions, or breaches were intervening and superseding causes of Plaintiffs' damages, if any.

11. Plaintiffs' claims are barred, in whole or in part, because Plaintiffs failed to mitigate their damages, if any.

12. Defendant is not liable for the acts, omissions, or conduct of other persons or entities not authorized to act on behalf of it; pleading further, and in the alternative, Defendant is not liable for the acts, omissions, or conduct of its agents who exceeded the scope of their authority.

13. Plaintiffs' claims may also be barred by additional defenses that may arise during the course of this litigation, which defenses Defendant reserves the right to assert.

**C. RESERVATION OF RIGHTS**

Defendant reserves the right to amend this pleading before the trial of this cause on the merits.

**D. CONSENT TO EMAIL SERVICE**

Pursuant to Rule 502.5(a)(2) of the Texas Rules of Civil Procedure, Defendant consents to email service from the Court and Plaintiff. TEX. R. CIV. P. 502.5(a)(2). Email service should be sent to the following individuals at their respective email addresses: Marc D. Cabrera at mcabrera@polsinelli.com; and Elizabeth Hayes at ehayes@polsinelli.com.

**II.  
PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendant prays that Plaintiffs' claims in all things be denied, and respectfully requests that judgment be entered on behalf of Defendant, that costs be assessed against Plaintiffs, and that Defendant recovers all relief, legal and equitable, to which it may be justly entitled.

Respectfully submitted,

/s/ Elizabeth Hayes

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**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document was served on all parties of record pursuant to the Texas Rules of Civil Procedure *via e-service and/or certified mail, return receipt requested* on October 10, 2023.

/s/ Elizabeth Hayes

Counsel for Defendant